

### **REMARKS**

The Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-20 are pending. Claims 1 and 10 are amended and claims 19 and 20 are added. Claims 1 and 10 are independent. The Examiner is respectfully requested to reconsider the rejections in view of the amendments and remarks set forth herein.

#### **Rejection Under 35 U.S.C. §103(a)**

Claims 1-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Itoh et al. (U.S. 5,924,510) in view of Gao (EP 0554138). This rejection is respectfully traversed.

While not conceding to the appropriateness of the Examiner's rejection, but merely to advance the prosecution of the present application, independent claims 1 and 10 are each amended herein to recite a combination of elements in a two/four-wheel drive switching device for a vehicle including an odd number of engaging/disengaging means disposed between the drive shaft and the driven shaft for engagement with and disengagement from opposed surfaces of said drive shaft and said driven shaft to connect and disconnect the shafts, the odd number being divisible by three so that when only three of the engaging/disengaging members which are disposed equidistantly from each other make contact with each of the drive shaft and the driven shaft, the drive shaft and the driven shaft become centered with respect to each other.

By contrast, neither the Itoh et al. nor the Gao document discloses an odd number of engaging/disengaging members, the odd number being divisible by three so that when only

three of the engaging/disengaging members which are disposed equidistantly from each other make contact with each of the drive shaft and the driven shaft, the drive shaft and the driven shaft become centered with respect to each other, as set forth in claims 1 and 10, as amended herein. As describe above, the particular advantages of an odd number of engaging/disengaging members, is fully disclosed in the specification. The advantages of the present invention are also shown by comparing Figs. 2(b) and (d).

The advantages of an odd number of engaging/disengaging members are the odd number being divisible by three so that when only three of the engaging/disengaging members which are disposed equidistantly from each other make contact with each of the drive shaft and the driven shaft, the drive shaft and the driven shaft become centered with respect to each other, confirmed in the Declaration under 37 C.F.R. 1.132, prepared by Mr. Bunzo SEKI, Assistant Chief Engineer, Honda R&D, Ltd., and filed on August 26, 2003.

The Examiner is advised that claims 19 and 20 are added to set forth additional novel features of the present invention.

In view of the arguments above, and the expert statements set forth in the Declaration under 37 C.F.R. 1.132, claims 1 and 10, and the claims depending therefrom are believed to be in condition for allowance. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. §103(a) are respectfully requested.

**Obviousness-Type Double Patenting Rejection**

Claims 1-18 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,530,447. This rejection is respectfully traversed.

The Examiner asserts that absent criticality with respect to the number of members used, it would have been an obvious design choice to use nine rather than eight members.

As argued above, an odd number of engaging/disengaging members, the odd number being divisible by three so that when only three of the engaging/disengaging members which are disposed equidistant from each other make contact with each of the drive shaft and the driven shaft, the drive shaft and the driven shaft become centered with respect to each other as set forth in the present invention, provide distinct and critical advantages not disclosed or made obvious by U.S. Patent 6,530,447.

In view of the arguments described above, and as confirmed by the Declaration under 37 C.F.R. 1.132 filed on August 26, 2003, the Applicants respectfully submit the Obviousness-Type Double Patenting rejection is not proper. Therefore, reconsideration and withdrawal of this rejection are requested.

All claims of this application are in condition for allowance.

**CONCLUSION**

Since the remaining patents cited by the Examiner have not been utilized to reject claims, but merely to show the state of the art, no comment need be made with respect thereto.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. It is believed that a full and complete response has been made to the outstanding Office Action, and that the present application is in condition for allowance.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee of \$110.00 is attached hereto.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone Carl T. Thomsen (Reg. No. 50,786) at (703) 205-8000.

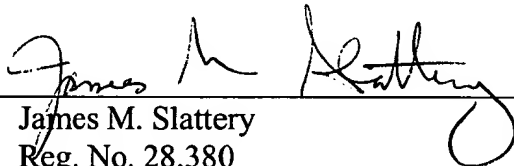
*Serial No. 09/964,426  
Amendment Dated March 18, 2004  
Reply to Office Action Dated November 19, 2003*

*Docket No. 0505-0869P  
Group Art Unit 3611  
Page 12 of 12*

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

James M. Slattery

Reg. No. 28,380

P. O. Box 747

Falls Church, VA 22040-0747

(703) 205-8000

0505-0769P  
JMS/CTT/jeb/ndb

